

1 the lawsuit filed by John Warta in this Court, pursuant to CR 13(h) and CR 19(a).

2 **THE PARTIES**

3 48.

4 Plaintiff and Counterclaim Defendant John Warta ("Warta") is a resident of Clark
5 County, Washington, and is, or was during the course of events described below, President
6 and Chief Executive Officer of GST, Chairman of the GST Board of Directors, a member of
7 the GUSA Board of Directors, a member of the Telecom Board of Directors, a member of
8 the GST Executive Committee, Vice-Chairman of the Global Board of Directors, a director
9 of a Global subsidiary, a Global shareholder, the owner of Guam Net/PCS Plus Pacific, Inc.,
10 and, through Pacwest Network, Inc., the owner of Magnacom Wireless, LLC ("Magnacom").
11 Warta committed all acts alleged herein for his benefit and for the benefit of the marital
12 community of himself and his wife. Said marital community is thus fully liable for all claims
13 alleged against Warta.

14 49.

15 Counterclaim Plaintiff GUSA is a Delaware Corporation with its principal place of
16 business in Vancouver, Washington. GUSA is a wholly-owned subsidiary of GST.

17 50.

18 Counterclaim Plaintiff Telecom is a Delaware Corporation with its principal place of
19 business in Vancouver, Washington. Telecom is a wholly-owned subsidiary of GST.

20 51.

21 Counterclaim Plaintiff GST is a Canadian Corporation with its principal place of
22 business in Vancouver, Washington. GST is a leading facilities-based provider of advanced
23 telecommunications products and services. The common stock of GST is traded on the
24 NASDAQ. The Company currently operates telecommunications networks in 18 cities and
25 has 31 additional networks under development. The Company has built fiber and switching
26 infrastructures in selected cities in the western United States and is pursuing a strategy of

1 linking the markets it serves via advanced long haul fiber optic networks. GST's integrated
 2 communications product and service offerings include Plain Old Telephone Service (POTS),
 3 analog trunk, private line, long distance, data (frame relay and ATM), paging, Centrex, and
 4 Custom Local Signaling Services (CLASS) such as call forwarding, caller I.D., voice mail,
 5 and automatic call back. GST also offers a full complement of Internet services, including
 6 dial-up, dedicated access, Electronic Data Interchange (EDI), and Web services. GST has no
 7 business operations in Canada.

8 52.

9 Counterclaim Defendant W. Gordon Blankstein ("Blankstein") is a resident of British
 10 Columbia, and is or was during the course of events described below, Chairman of the GST
 11 Board of Directors, a member of the GST Executive Committee, a member of the GST
 12 Finance Committee, a Director of Global, Acting President of Global, Chairman of the
 13 Global Board of Directors (current), and a major Global shareholder (current).

14 53.

15 Counterclaim Defendant Stephen Irwin ("Irwin") is a resident of New Jersey, and is,
 16 or was during the course of events described below, a Vice-President of GST, a Director of
 17 GST, Vice-Chairman of the GST Board of Directors, a member of the GUSA Board of
 18 Directors, a member of the Telecom Board of Directors, a member of the GST Executive
 19 Committee, a member of the GST Finance Committee, Secretary of GST, counsel to GST,
 20 Secretary to a Global subsidiary, counsel to Global, a Global shareholder, and an officer of
 21 Magnacom Wireless, LLC ("Magnacom"). Irwin is also Of Counsel to the law firm of
 22 Olshan Grundman Frome & Rosenzweig LLP, now known as Olshan Grundman Frome
 23 Rosenzweig & Wolosky LLP ("Olshan"), in New York, New York.

24 54.

25 Counterclaim Defendant Robert H. Hanson ("Hanson") is a resident of Wyoming, and
 26 is, or was during the course of events described below, Senior Vice-President of GST, Chief

1 Financial Officer of GST, a Director of GST, a member of the GST Finance Committee, a
2 Global shareholder, and a Global consultant.

3 55.

4 Earl C. Kamsky ("Kamsky") is now deceased, but was, during the course of events
5 described below, President and Chief Executive Officer of Telecom, a Director of GST,
6 President and Chief Executive Officer of Global, a Director of Global, President and Chief
7 Executive Officer of a Global subsidiary and a Global shareholder.

8 56.

9 Counterclaim Defendant Peter E. Legault ("Legault") is a resident of Ontario, Canada
10 and, is or was during the course of events described below, a Director of GST, a Director of
11 Global, and a Global shareholder. Legault is also a Director and Vice-President of Thomson
12 Kernaghan & Co. Ltd. ("Thomson").

13 57.

14 Counterclaim Defendant Ian Watson ("Watson") is a resident of Marin County,
15 California and is, or was during the course of events described below, President and Chief
16 Executive Officer of GST, Chairman of the GST Board of Directors, Vice-President of
17 GUSA, a member of the GST Finance Committee, President and Chief Executive Officer of
18 Global (current), Vice-Chairman of the Global Board of Directors (current), and a Global
19 shareholder (current). Watson is also the beneficial owner of Tellson Holdings Limited
20 ("Tellson").

21 58.

22 Counterclaim Defendant Global Light Telecommunications, Inc. ("Global"), formerly
23 known as "GST Global Telecommunications, Inc.," and before that, "Canadian Programming
24 Concepts, Inc." ("CPC"), is incorporated under the laws of Yukon Territory, Canada with its
25 "executive offices" in Vancouver, British Columbia and its principal operations in Mountain
26 View, California. Global is a telecommunications company whose common stock is traded

1 on the American Stock Exchange and the Vancouver Stock Exchange. Apart from a few
2 employees in its Vancouver, British Columbia office, Global has no business operations in
3 Canada.

4 59.

5 On information and belief, each of the Counterclaim Defendants conspired with,
6 participated with, and acted in concert with, each of the other Counterclaim Defendants in
7 the activities hereinafter alleged, and, at all times herein mentioned, each of such
8 Counterclaim Defendants was the agent of and authorized to act for and was acting for and
9 on behalf of and with the knowledge and consent of each of the other Counterclaim
10 Defendants.

11 60.

12 Dr. Thomas E. Sawyer, Jack Armstrong, and Takashi Yoshida were directors of GST
13 during the relevant period and are not named as defendants herein. These directors are
14 hereinafter collectively referred to as the "Independent Directors." Sawyer has, since the
15 events described herein, become affiliated with Counterclaim Defendant Global.

16 THE FACTS

17 61.

18 In early 1996, GST had developed a significant business opportunity in Mexico (the
19 "Bestel Opportunity") whereby it could acquire a 49% interest in one of seven concessions
20 which had been granted by the Mexican telecommunications authority (the "SCT") to a
21 Mexican consortium, Grupo Varo, to construct and operate a public telecommunications
22 network in Mexico. By the fall of 1996, however, the Counterclaim Defendants - the
23 individuals of whom were not only directors and officers of GST, but also significant
24 undisclosed shareholders of Global - had fraudulently transferred the Bestel Opportunity to
25 Global for no consideration. There was not at that time, or ever, any written agreement or
26 even a term sheet between GST and Global stating the terms for transfer of the Bestel

1 Opportunity. A May 1998 independent analyst's report has placed the value of the Bestel
2 Opportunity at \$460 million. Thus, GST's 49% interest - wrongly taken by Global - has
3 been independently valued at \$225 million. Upon information and belief, the value of Bestel
4 has increased since the date of the valuation.

5 **Global**

6 62.

7 Global was formerly known as Canadian Programming Concepts Ltd. ("CPC"). CPC
8 was a Yukon Territory corporation incorporated in 1993 as the shell owner of a tiny existing
9 Texas business known as Programming Concepts, Inc. Before the Counterclaim Defendants
10 caused the Bestel Opportunity to be fraudulently transferred to CPC for no consideration,
11 CPC was a lightly-traded shell corporation listed on the Vancouver Stock Exchange with no
12 material assets.

13 63.

14 From the time of its incorporation, CPC was controlled by Blankstein and his
15 associates. In or about May of 1995, CPC was listed on the Vancouver Stock Exchange (the
16 "VSE"). Since approximately August of 1998, CPC, now known as Global, has been trading
17 on the American Stock Exchange.

18 64.

19 Blankstein, then Chairman of the GST Board, had been attempting to induce GST to
20 acquire an interest in CPC for some time. In October of 1995, at a GST Board of Directors
21 meeting in Japan, Blankstein suggested to the GST Board that GST acquire a shell
22 corporation. In July of 1996, upon Blankstein's urging, and with Warta's support, the Board
23 finally authorized a significant purchase of CPC stock.

24 65.

25 GST purchased 2.1 million shares of CPC stock on June 3, 1996. 1,450,000 of these
26 shares were purchased by GST directly from Blankstein at a cost of \$72,500 or 5 cents per

1 share.

2 66.

3 In the same transaction in which GST purchased shares from Blankstein personally,
 4 GST also purchased 125,000 CPC shares from Teleport Canada Development Corporation
 5 ("Teleport") for \$87,500 (70 cents per share), 425,000 shares from Quest Capital
 6 Corporation for \$193,750 (45 cents per share) and 100,000 shares from associates of
 7 Blankstein for \$50,000 (50 cents per share). Teleport was a corporation in which Blankstein
 8 and his brother Robert Blankstein had a substantial beneficial interest. The fact that GST
 9 was purchasing shares from a company in which its Chairman had a significant financial
 10 stake was not disclosed at the time to the Independent Directors.

11 67.

12 At the time of GST's acquisition of 2.1 million shares, Global had outstanding shares
 13 totaling 3,450,001. Thus, through its June 3, 1996 purchase of 2.1 million shares GST
 14 acquired approximately 60% of Global's outstanding shares.

15 68.

16 The GST Board was not informed that GST had purchased CPC shares until a month
 17 later. As recorded in the minutes of a July 2, 1996 telephonic meeting of the GST Board that
 18 was chaired by Blankstein and attended by Warta, Irwin, Armstrong, Hanson, Legault,
 19 Sawyer and Watson:

20 The Chairman [Blankstein] then discussed proposed
 21 arrangements pertaining to the acquisition of control of an
 22 existing Canadian corporation, Canadian Programming
 23 Concepts, Inc., whose shares were currently traded on the
 24 Vancouver Stock Exchange. The Company proposed to acquire
 25 2,100,000 shares...which would result in its ownership of 37.5%
 26 of the outstanding capital stock. It was contemplated that the
 new corporation, with a working name of GST Global
 Communications...would be used for non-U.S.
 telecommunications projects The Board determined that the
 Company should cause Messrs. Blankstein, Warta, Irwin and
 Legault to be elected initially as directors of GST Global ...

(Emphasis supplied). No mention was made at this meeting of the identity of the sellers, Blankstein and Teleport, of the fact that it was not a "proposed" acquisition, but one that had already occurred, or of the fact that, on the day of this acquisition GST had acquired 60%, rather than 37.5% of the then outstanding Global shares.

69.

One day after GST's acquisition of Global shares, Blankstein caused Global to announce a private placement of 1.5 million units (the "Units") at \$1.50 Canadian per Unit. Each Unit consisted of one share and a one-share-purchase warrant exercisable at \$2.00 Canadian for one year. The issuance of the Units resulted in the substantial dilution of GST's interest in Global.

70.

The places in this private placement included Counterclaim Defendants Warta, Blankstein, Irwin, Hanson and Watson (through Tellson), each of whom received 65,000 units. In addition, Legault purchased 75,000 Units in the name of Thomson Kernaghan, a company in which he held a material interest. The private placement of the Units closed on or about August 14, 1996.

71.

Between June 3, 1996, when GST first acquired Global shares, and the present, Warta, Blankstein, and the other Individual Counterclaim Defendants, despite being directors or officers of GST, continued to cause Global to issue more shares, thereby substantially diluting GST's interest in Global. This is illustrated in the following chart:

Dilution Of GST's Interest In Global

Issue Date	Number of shares Issued by Global	GST's purchases	GST's percentage interest in Global	Global shares Outstanding
7/96		2.1 million	61%	3.45 million

Issue Date	Number of shares Issued by Global	GST's purchases	GST's percentage interest in Global	Global shares Outstanding
8/96	1.5 million		42%	4.95 million
9/96	.32 million		40%	5.27 million
11/96	3 million	1.5 million	46%	8.27 million
1/97	2.75 million		33%	11.02 million
2/97	1.12 million		30%	12.14 million

By December 31, 1997, following various other stock issuances by Global, the 3.6 million Global shares that were owned by GST represented only 20.6% of Global's outstanding shares. This dilution, which occurred through the knowledge and acquiescence of Warta and the other Counterclaim Defendants, placed GST at risk of violating various debt covenants.

GST Insiders Buy Into Global

72.

On July 3, 1996, the day after the GST Board approved the "proposed" acquisition of Global stock, the Global Board granted 67,000 stock options each to Warta, Irwin, and Blankstein, and 20,000 options to Legault. These stock options were separate and apart from the Units that the Individual Counterclaim Defendants purchased in the Global private placement. As a result, by no later than August 14, 1996 (the date the private placement of 1.5 million Units closed), the Individual Counterclaim Defendants' holdings of Global shares included:

Irwin 65,000 common shares @ \$1.50¹ per share
 65,000 warrants exercisable for one year @ \$2.00 per share
 67,000 options @ \$1.66 per share until June 4, 2001

¹ All dollar amounts in these tables are in Canadian dollars.

1 **Warta** 65,000 common shares @ \$1.50 per share
2 65,000 warrants exercisable for one year @ \$2.00 per share
3 67,000 options @ \$1.66 per share until June 4, 2001
4 **Legault** 20,000 options @ \$1.66 per share until June 4, 2001
5 75,000² common shares @ 1.50 per share
6 75,000 warrants exercisable for one year @ \$2.00 per share
7 **Watson**³ 65,000 common shares @ \$1.50 per share
8 65,000 warrants exercisable for one year @ \$2.00 per share
9 **Blankstein** 65,000 common shares @ \$1.50 per share
10 65,000 warrants exercisable for one year @ \$2.00 per share
11 67,000 options @ \$1.66 per share until June 4, 2001
12 **Hanson** 65,000 common shares @ \$1.50 per share
13 65,000 warrants exercisable for one year @ \$2.00 per share

14 73.

15 At the September 16, 1996 GST Board meeting held in Vancouver, Washington,
16 which was attended by Warta, Blankstein, Irwin, Armstrong, Watson, Hanson, Sawyer and
17 Legault, the Independent Directors were informed that Global had issued 67,000 stock
18 options to Warta, Irwin, Blankstein and Legault. This was, at best, a half-truth. The
19 Individual Counterclaim Defendants, for their own profit and for the benefit of Global, did
20 not tell the Independent Directors that each of the Individual Counterclaim Defendants had
21 previously purchased, directly and indirectly, thousands of shares of Global stock.
22 Moreover, although the Board refused, at this meeting, to ratify the issuance of Global
23 options to Warta, Irwin, Blankstein or Legault, these Individual Counterclaim Defendants did

24 ² These purchases were made through Thomson Kernaghan.

25 ³ These purchases were made though Tellson, a company in which Watson held a
26 material interest.

1 not divest themselves of their Global options.

2 74.

3 By March of 1997, the Individual Counterclaim Defendants' holdings of Global
4 shares or stock options, which holdings were never fully disclosed to the Independent
5 Directors, included:

6	Irwin	99,896 common shares @ 96 cents per share
7		65,000 common shares @ \$1.50 per share
8		65,000 warrants exercisable @ \$2.00 per share
9		67,000 options @ \$1.66 per share until June 4, 2001
10	Warta	65,000 common shares @ \$1.50 per share
11		65,000 warrants exercisable @ \$2.00 per share
12		67,000 options @ \$1.66 per share until June 4, 2001
13	Legault	20,000 options @ \$1.66 per share until June 4, 2001
14		75,000 ⁴ common shares @ \$1.50 per share
15		75,000 warrants exercisable @ \$2.00 per share
16	Watson	65,000 ⁵ common shares @ \$1.50 per share
17		65,000 warrants exercisable @ \$2.00 per share
18		74,000 options @ \$5.30 per share until Jan. 28, 2002
19	Blankstein	65,000 common shares @ \$1.50 per share
20		65,000 warrants exercisable @ \$2.00 per share
21		67,000 options @ \$1.66 per share until June 4, 2001
22		65,500 options @ \$5.30 per share until Jan. 28, 2002
23	Hanson	65,000 common shares @ \$1.50 per share

24 _____
25 ⁴ These are purchases made through Thomson Kernaghan.

26 ⁵ These are purchases made though Tellson.

1 65,000 warrants exercisable for one year @ \$2.00 per share

2 **Development of the Bestel Opportunity**

3 75.

4 As noted above, GST had begun developing the Bestel Opportunity in early 1996.
5 Eventually, a letter of intent was negotiated between Grupo Varo, a Mexican company, and
6 GST. Irwin was designated by GST to represent GST's interests in these negotiations. In
7 April 1996, the letter of intent was signed by Grupo Varo and GST to negotiate in good faith
8 and enter into a final agreement pursuant to which the parties would jointly own (through a
9 company called Cableados y Sistemas, S.A. de C.V. ("Cystel"), and subsequently renamed
10 Bestel S.A. de C.V. ("Bestel")) and finance construction and operation of the Network.

11 76.

12 On or about May 21, 1996, the GST Board met with Grupo Varo representatives at a
13 Special Joint Meeting of the Boards of Directors of GST and GUSA in Vancouver,
14 Washington. Each of the individual Defendants attended the meeting. Manuel Vasquez
15 Robles of Grupo Varo provided the Board with a description of the proposed joint venture
16 between GST and Grupo Varo. The joint venture was to design, construct, and operate a fibre
17 optic network consisting of approximately 2,200 kilometers linking Nuevo Laredo, Mexico
18 City, Guadalajara and Manzanillo. Moreover, GST would be able to link this network with
19 its own network in the southern United States.

20 77.

21 On or about May 22, 1996, the GST Board authorized GST to proceed with the joint
22 venture through a wholly-owned subsidiary. GST appointed Warta, Irwin, and Kamsky, as a
23 negotiating team to meet with representatives of Grupo Varo in order to negotiate joint
24 venture agreements for consideration and approval by the Board. Thereafter, Warta, Irwin,
25 and Kamsky traveled to Mexico to conduct due diligence of the Bestel Opportunity on behalf
26 of GST. In total, GST expended approximately \$1,000,000 to develop the Bestel